

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Suit No. 4857S of 2016

Between

HOLLY HOLIDAY

... Plaintiff

And

**R. MURPHY INTERNATIONAL
SCHOOL**

... Defendant

Coram: SUE SYLVESTER J.

Damian McGlinty and Samuel Larsen (Winners LLP) for the Plaintiff

Ailaikmani Kaur and Qian Duo Duo (Mani, Moolah and Qian) for the Defendant

GROUNDINGS FOR DECISION

1. The Defendant is a premier school, recognized as one of the most desired private learning institutions in the nation leading to university entry. Entry to the school is extremely competitive, and its graduands inevitably find places in the top universities. The student population is made up of confident, outspoken young people who excel in sports and academia. Its teachers are counted as among the best in the nation because the Defendant expends considerable time and money to engage the best from the public schools.
2. The Plaintiff was engaged by the school to teach literature in 2014. She had graduated from Oxford University top in her class in literature and was a prize-winning local author. She had been teaching in a public girls' school for 2 years to rave reviews before the Defendant headhunted her.
3. The Plaintiff's evidence is that she enjoyed teaching at the Defendant institution. She found the students to be extremely motivated and dedicated to their school work. She engaged in lively discussions with the students and was encouraged by them to set up an online book club. As she was not technically inclined, the book club was set up by a group of students using her school issued laptop.
4. According to the Plaintiff, the Defendant provided a supportive environment for teaching and learning. Her interactions with her colleagues were intellectually stimulating and discussions ranged from improving pedagogy to literary critique. Her evidence was that she felt like she was back at university all over again.
5. In July 2016, the Plaintiff received a tip from one of her students that there was a considerable online buzz about her. The Plaintiff testified that she did not spend much time online. Her activities on the net were confined to checking her work and social email and visiting her own Facebook account once a week, usually on weekends. The only thing that she accessed daily was her online book club.
6. The Plaintiff was disturbed at the news that she was being discussed online. At the prompting of the student, she looked up her own name in Google, and was horrified to find

several sites bearing her name. Counsel for the Plaintiff was able to save much of the material from sites and these were produced in evidence at trial. There was one blog allegedly written by her, bearing her name, identifying the Defendant school, even naming her students. It portrayed her as a sexual predator with indecent thoughts about her students. One site was a fictitious facebook account. This contained doctored photographs bearing her image in compromising positions with students in the Defendant's uniform. The students' faces were blurred. The evidence was that this account was updated almost on an hourly basis with suggestive comments. Several videos on Youtube contained footage of her spliced with sordid blurry footage suggestive of lewd acts. According to the Plaintiff, anyone who looked up her name on the internet would believe, from this material, that she was a sexual deviant with no business teaching young people.

7. The Plaintiff was devastated by her discovery. She immediately went to the Vice-Principal. The Defendant launched investigations in an attempt to locate the perpetrators. A reputable private computer forensics firm was engaged to assist in the investigations. The evidence of the Defendants was that, although they were able to establish that the perpetrators included persons from the school, they had no success in identifying the individuals involved. There were indications that a number of students had been involved, but the identity of the students could not be made out.
8. The Plaintiff wanted to make a police report about the incident and seek police assistance in investigations. At the urging of the Defendant, she refrained from doing so. The Defendant was concerned about the adverse publicity, in particular, the adverse image of its own students that such publicity would create. The Plaintiff's evidence was that she was initially persuaded that the innocent students did not deserve to be adversely affected by the misdeeds of the few.
9. As a result, no reports were made, and the matter was dealt with utmost discretion by the Defendant. There were no school announcements about the matter. The Plaintiff's colleagues were not told. She confided in a few of her colleagues, who themselves maintained confidentiality. Their evidence was that the Defendant's management had urged that keeping the matter under wraps was the best way to manage the situation.
10. There followed several months during which the Plaintiff says that she felt immense psychological stress. To her, her workplace had become hostile. Each time she faced the students, she felt as though she was looking at the very students who had victimized her online. She became suspicious of all of them. She felt as though all her movements were being recorded. Her work suffered. Students who noticed came forward to express their concern about her wellbeing. The Plaintiff testified that she was torn between gratitude that her students cared for her, and suspicion that they were the very ones who had victimised her.
11. To the Plaintiff's dismay, the online victimization continued. Each time she took up the courage to look for her own name online, she found new pictures and new entries to the blog and Facebook account, all salacious, and all causing her great distress.
12. The Defendant's evidence was that although there was evidence that its students had been involved in the online victimization, none of the sites or accounts were within the Defendant's control. Therefore the Defendant was helpless in stopping the online activity.

13. By October 2016, the Plaintiff was suffering from depression. Although her visits to a psychologist for therapy were paid for by the Defendant, she was frustrated and disappointed at their lack of action to support her. In November 2016, she tendered her resignation and commenced this action against the Defendant.
14. The Plaintiff claims that the Defendant was negligent in that it failed to provide a safe work environment for her such that their breach of their duty to her resulted in her suffering from psychological stress, leading to her present condition. She produced several reports from psychologists and psychiatrists, all of which stated that she was no longer able to teach as a direct result of the psychological harm caused to her from the online victimization. The Plaintiff's claim is for loss of income.
15. As the question of damages is to be determined at a later stage, the sole question I had to consider was whether the scope of the Defendant's duty of care included a duty to ensure a safe online environment for the Defendant. There is no doubt that if such a duty of care existed, the Defendant's lack of action in reporting the online victimization and failure to take action with respect to the student body contributed to the continuation of the online victimization. At the very least, the Defendant ought to have educated its students about the impact of cyberbullying. All this could have been done without identifying the Plaintiff as a victim of such cyberbullying. While it is settled law that an employer has the obligation to ensure the physical safety of its employees in the workplace, the extent of an employer's duty to ensure a safe online environment is less clear. I am willing to accept that the *Workplace Health & Safety Act* can be construed to include a safe online working environment, but as the Act also explicitly states that it does not confer any civil liabilities, I am of the view that in the modern world where online activities are so prevalent, an employer's duty of care must extend beyond the physical realm to the virtual workspace.
16. Unfortunately, there was a severe paucity in the legal authority cited to me by counsel for both parties. This was not a situation of work-related stress, such as that in *Sutherland v Hatton* [2002] IRLR 263, because the Plaintiff's workload was not increased by the Defendant. This was also not a situation where the employees of the Defendant harassed or intimidated the Plaintiff, such as in *Garrett v London Borough of Camden* [2001] All ER (D) 202 or *Green v DB Group Services (UK) Ltd* [2006] IRLR 764. This was also not a case where the Defendant had breached its statutory obligations on workplace health and safety, as this is a claim for civil liability.
17. In any case, the Plaintiff is a teacher and the nature of her work does not require her to be active online. I therefore find that the Plaintiff has failed in her claim.

SUE SYLVESTER J.

25 August 2017